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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re "A Million Little Pieces Litigation"	MDL Docket No. 1771
THIS DOCUMENT RELATES TO ALL ACTIONS	

REPLY DECLARATION OF EVAN J. SMITH, ESQUIRE IN SUPPORT OF "A MILLION LITTLE PIECES" PLAINTIFFS' GROUP'S MOTION FOR CONSOLIDATION AND APPOINTMENT OF CO-INTERIM CLASS COUNSEL

I, Evan J. Smith, Esquire hereby declares:

1. I am an attorney, duly licensed and admitted to practice law in the State of New York and in this Court. I am a partner in the law firm of Brodsky & Smith, LLC, counsel for Plaintiff Michele Snow in these coordinated proceedings. I have personal knowledge of the facts set forth in this Declaration. If called upon and sworn as a witness, I could and would competently testify to these facts.

2. I am also licensed to practice in the State of California and our firm has offices in New York and California. We currently are actively litigating complex and/or class action matters in both California and New York state and/or federal courts.

3. Defendants had no choice in the selection of the lead negotiators for the Plaintiffs and/or the selected proposed Interim Class Counsel. Such lead negotiators and proposed Interim counsel was discussed, selected and agreed upon solely by and between Plaintiffs and their respective counsel that are a part of the AMLP Plaintiffs' Group without any input from any Defendants or any of their counsel.

Dockets.Justia.com

4. I attended the MDL oral argument and to the best of my knowledge there was no attorney from the lawfirm of Shalov, Stone & Bonner who attend or argued.

5. I asked the attorney from Shalov Stone & Bonner who attended the September 13, 2006 status conference before the status conference began when he or his firm became involved in the case and he advised me that he had been involved in the case since they filed the original complaint for Plaintiff Sara Rubenstein.

6. Despite my extensive litigation in this action, including but not limited to the MDL proceeding, the negotiations with all plaintiffs' counsel in the proposed leadership structure, and settlement negotiations with defense counsel, the first time I became aware of Shalov Stone & Bonner's involvement in this litigation was through their September 11, 2006 correspondence to the Court regarding the issues to be addressed at the September 13, 2006 status conference.

7. A true and correct copy of the Plaintiff Rubenstein's MDL brief is attached hereto as Exhibit "A."

8. A true and correct copy of Plaintiff Pilar More's Complaint is attached hereto as Exhibit "B."

9. A true and correct copy of Plaintiff Rubenstein's Complaint is attached hereto as Exhibit "C."

10. A true and correct copy of Thomas Mullaney, Esquire's September 21, 2006 correspondence with fax confirmation to James Bonner, Esquire is attached hereto as Exhibit "D."

11. A true and correct copy of the instant MDL attorney docket is attached hereto as Exhibit "E."

12. A true and correct copy of Plaintiff Rubenstein's SDNY docket sheet is attached hereto as Exhibit "F."

13. A true and correct copy of Plaintiff Rubenstein's SDNY **attorney** docket sheet is attached hereto as Exhibit "G."

14. A true and correct copy of Plaintiff Rubenstein's United States District Court for the Central District of California's docket sheet is attached hereto as Exhibit "H."

15. A true and correct copy of Plaintiff Rubenstein's United States District Court for the Central District of California's **attorney** docket sheet is attached hereto as Exhibit "I."

16. A true and correct copy of the MDL Panel's official service list is attached hereto as Exhibit "J."

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: October 4, 2006

/s/ Evan J. Smith, Esquire (ES3254)
Evan J. Smith, Esquire (ES3254)